

REFERENCE TITLE: referenda and initiatives; legislative restrictions

State of Arizona
Senate
Forty-eighth Legislature
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2007

SCR 1015

Introduced by
Senators Gray C, Allen, Bee, Burns, Flake, Harper, Huppenthal, Johnson;
Representatives Konopnicki, Reagan: Senators Blendu, Gray L, Leff,
Verschoor; Representatives Adams, Anderson, Biggs, McComish, Robson

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV,
PART 1, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO THE LEGISLATIVE
AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Whereas, our general election ballots are becoming increasingly
2 lengthy, with progressively more propositions seeking voter approval; and

3 Whereas, Arizona citizens are being asked to spend more and more time
4 in the voting booth due to an ever increasing number of ballot propositions;
5 and

6 Whereas, the cumulative outcome of the enactment of a growing number of
7 voter-protected measures severely restricts the ability of the Legislature to
8 act in the interests of the people of Arizona and results in additional
9 referrals to the ballot; and

10 Whereas, in order to preserve our representative form of government,
11 the legislative representatives of the people of Arizona must be able to
12 address all concerns and issues of this state, including past and future
13 issues established by initiative and referendum.

14 Therefore

15 Be it resolved by the Senate of the State of Arizona, the House of
16 Representatives concurring:

17 1. Article IV, part 1, section 1, Constitution of Arizona, is proposed
18 to be amended as follows if approved by the voters and on proclamation of the
19 Governor:

20 1. Legislative authority; initiative and referendum

21 Section 1. (1) Senate; house of representatives;
22 reservation of power to people. The legislative authority of
23 the state shall be vested in the legislature, consisting of a
24 senate and a house of representatives, but the people reserve
25 the power to propose laws and amendments to the constitution and
26 to enact or reject such laws and amendments at the polls,
27 independently of the legislature; and they also reserve, for use
28 at their own option, the power to approve or reject at the polls
29 any act, or item, section, or part of any act, of the
30 legislature.

31 (2) Initiative power. The first of these reserved powers
32 is the initiative. Under this power ten per ~~centum~~ CENT of the
33 qualified electors shall have the right to propose any measure,
34 and fifteen per ~~centum~~ CENT shall have the right to propose any
35 amendment to the constitution.

36 (3) Referendum power; emergency measures; effective date
37 of acts. The second of these reserved powers is the referendum.
38 Under this power the legislature, or five per ~~centum~~ CENT of the
39 qualified electors, may order the submission to the people at
40 the polls of any measure, or item, section, or part of any
41 measure, enacted by the legislature, except laws immediately
42 necessary for the preservation of the public peace, health, or
43 safety, or for the support and maintenance of the departments of
44 the state government and state institutions; but to allow
45 opportunity for referendum petitions, no act passed by the

1 legislature shall be operative for ninety days after the close
2 of the session of the legislature enacting such measure, except
3 such as require earlier operation to preserve the public peace,
4 health, or safety, or to provide appropriations for the support
5 and maintenance of the departments of the state and of state
6 institutions; provided, that no such emergency measure shall be
7 considered passed by the legislature unless it shall state in a
8 separate section why it is necessary that it shall become
9 immediately operative, and shall be approved by the affirmative
10 votes of two-thirds of the members elected to each house of the
11 legislature, taken by roll call of ayes and nays, and also
12 approved by the governor; and should such measure be vetoed by
13 the governor, it shall not become a law unless it shall be
14 approved by the votes of three-fourths of the members elected to
15 each house of the legislature, taken by roll call of ayes and
16 nays.

17 (4) Initiative and referendum petitions; filing. All
18 petitions submitted under the power of the initiative shall be
19 known as initiative petitions, and shall be filed with the
20 secretary of state not less than four months preceding the date
21 of the election at which the measures so proposed are to be
22 voted upon. All petitions submitted under the power of the
23 referendum shall be known as referendum petitions, and shall be
24 filed with the secretary of state not more than ninety days
25 after the final adjournment of the session of the legislature
26 which shall have passed the measure to which the referendum is
27 applied. The filing of a referendum petition against any item,
28 section, or part of any measure shall not prevent the remainder
29 of such measure from becoming operative.

30 (5) Effective date of initiative and referendum measures.
31 Any measure or amendment to the constitution proposed under the
32 initiative, and any measure to which the referendum is applied,
33 shall be referred to a vote of the qualified electors, and shall
34 become law when approved by a majority of the votes cast thereon
35 and upon proclamation of the governor, and not otherwise.

36 (6) (A) Veto of initiative or referendum. The veto
37 power of the governor shall not extend to an initiative measure
38 approved by a majority of the votes cast thereon or to a
39 referendum measure decided by a majority of the votes cast
40 thereon.

41 (6) (B) Legislature's power to repeal initiative or
42 referendum. [SUBJECT TO SUBSECTION \(6\)\(E\)](#), the legislature shall
43 not have the power to repeal an initiative measure approved by a
44 majority of the votes cast thereon or to repeal a referendum
45 measure decided by a majority of the votes cast thereon.

1 (6) (C) Legislature's power to amend initiative or
2 referendum. **SUBJECT TO SUBSECTION (6)(E)**, the legislature shall
3 not have the power to amend an initiative measure approved by a
4 majority of the votes cast thereon, or to amend a referendum
5 measure decided by a majority of the votes cast thereon, unless
6 the amending legislation furthers the purposes of such measure
7 and at least three-fourths of the members of each house of the
8 legislature, by a roll call of ayes and nays, vote to amend such
9 measure.

10 (6) (D) Legislature's power to appropriate or divert
11 funds created by initiative or referendum. **SUBJECT TO**
12 **SUBSECTION (6)(E)**, the legislature shall not have the power to
13 appropriate or divert funds created or allocated to a specific
14 purpose by an initiative measure approved by a majority of the
15 votes cast thereon, or by a referendum measure decided by a
16 majority of the votes cast thereon, unless the appropriation or
17 diversion of funds furthers the purposes of such measure and at
18 least three-fourths of the members of each house of the
19 legislature, by a roll call of ayes and nays, vote to
20 appropriate or divert such funds.

21 **(6) (E) THE LIMITATION ON THE LEGISLATURE'S POWER TO**
22 **REPEAL, AMEND OR SUPERSEDE AN INITIATIVE MEASURE OR REFERENDUM**
23 **MEASURE OR APPROPRIATE OR DIVERT FUNDS CREATED BY INITIATIVE OR**
24 **REFERENDUM PRESCRIBED BY SUBSECTIONS (6)(B), (6)(C), (6)(D) AND**
25 **(14) EXPIRES FIVE YEARS AFTER THE DATE OF THE ELECTION AT WHICH**
26 **THE INITIATIVE MEASURE OR REFERENDUM MEASURE WAS APPROVED.**
27 **DURING THE FIVE-YEAR PERIOD, THE LEGISLATURE SHALL NOT CONSIDER**
28 **OR ENACT ANY BILL IN VIOLATION OF SUBSECTION (6)(B), (6)(C),**
29 **(6)(D) OR (14), REGARDLESS OF WHEN THE PROVISIONS OF THE BILL**
30 **WOULD TAKE EFFECT. THIS SUBSECTION APPLIES TO INITIATIVE**
31 **MEASURES, REFERENDUM MEASURES AND FUNDS CREATED BY INITIATIVE OR**
32 **REFERENDUM APPROVED ON AND BEFORE AND AFTER NOVEMBER 4, 2008.**

33 (7) Number of qualified electors. The whole number of
34 votes cast for all candidates for governor at the general
35 election last preceding the filing of any initiative or
36 referendum petition on a state or county measure shall be the
37 basis on which the number of qualified electors required to sign
38 such petition shall be computed.

39 (8) Local, city, town or county matters. The powers of
40 the initiative and the referendum are hereby further reserved to
41 the qualified electors of every incorporated city, town, and
42 county as to all local, city, town, or county matters on which
43 such incorporated cities, towns, and counties are or shall be
44 empowered by general laws to legislate. Such incorporated
45 cities, towns, and counties may prescribe the manner of

1 exercising said powers within the restrictions of general laws.
2 Under the power of the initiative fifteen per ~~centum~~ CENT of the
3 qualified electors may propose measures on such local, city,
4 town, or county matters, and ten per ~~centum~~ CENT of the electors
5 may propose the referendum on legislation enacted within and by
6 such city, town, or county. Until provided by general law, said
7 cities and towns may prescribe the basis on which said
8 percentages shall be computed.

9 (9) Form and contents of initiative and of referendum
10 petitions; verification. Every initiative or referendum
11 petition shall be addressed to the secretary of state in the
12 case of petitions for or on state measures, and to the clerk of
13 the board of supervisors, city clerk, or corresponding officer
14 in the case of petitions for or on county, city, or town
15 measures; and shall contain the declaration of each petitioner,
16 for himself, that he is a qualified elector of the state (and in
17 the case of petitions for or on city, town, or county measures,
18 of the city, town, or county affected), his post office address,
19 the street and number, if any, of his residence, and the date on
20 which he signed such petition. Each sheet containing
21 petitioners' signatures shall be attached to a full and correct
22 copy of the title and text of the measure so proposed to be
23 initiated or referred to the people, and every sheet of every
24 such petition containing signatures shall be verified by the
25 affidavit of the person who circulated said sheet or petition,
26 setting forth that each of the names on said sheet was signed in
27 the presence of the affiant and that in the belief of the
28 affiant each signer was a qualified elector of the state, or in
29 the case of a city, town, or county measure, of the city, town,
30 or county affected by the measure so proposed to be initiated or
31 referred to the people.

32 (10) Official ballot. When any initiative or referendum
33 petition or any measure referred to the people by the
34 legislature shall be filed, in accordance with this section,
35 with the secretary of state, he shall cause to be printed on the
36 official ballot at the next regular general election the title
37 and number of said measure, together with the words "yes" and
38 "no" in such manner that the electors may express at the polls
39 their approval or disapproval of the measure.

40 (11) Publication of measures. The text of all measures to
41 be submitted shall be published as proposed amendments to the
42 constitution are published, and in submitting such measures and
43 proposed amendments the secretary of state and all other
44 officers shall be guided by the general law until legislation
45 shall be especially provided therefor.

(12) Conflicting measures or constitutional amendments. If two or more conflicting measures or amendments to the constitution shall be approved by the people at the same election, the measure or amendment receiving the greatest number of affirmative votes shall prevail in all particulars as to which there is conflict.

(13) Canvass of votes; proclamation. It shall be the duty of the secretary of state, in the presence of the governor and the chief justice of the supreme court, to canvass the votes for and against each such measure or proposed amendment to the constitution within thirty days after the election, and upon the completion of the canvass the governor shall forthwith issue a proclamation, giving the whole number of votes cast for and against each measure or proposed amendment, and declaring such measures or amendments as are approved by a majority of those voting thereon to be law.

(14) Reservation of legislative power. This section shall not be construed to deprive the legislature of the right to enact any measure except that the legislature shall not have the power to adopt any measure that supersedes, in whole or in part, any initiative measure approved by a majority of the votes cast thereon or any referendum measure decided by a majority of the votes cast thereon ~~unless the superseding measure furthers the purposes of the initiative or referendum measure and at least three fourths of the members of each house of the legislature, by a roll call of ayes and nays, vote to supersede such initiative or referendum measure~~ EXCEPT AS PROVIDED BY SUBSECTION (6).

(15) Legislature's right to refer measure to the people. Nothing in this section shall be construed to deprive or limit the legislature of the right to order the submission to the people at the polls of any measure, item, section, or part of any measure.

(16) Self-executing. This section of the constitution shall be, in all respects, self-executing.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.